To: Benjamin A. Costa(trademark@rcjlawgroup.com)

Subject: U.S. Trademark Application Serial No. 97705213 - BOY COLLECTIVE

Sent: September 14, 2023 08:40:07 AM EDT

Sent As: tmng.notices@uspto.gov

Attachments

screencapture-www-merriam-webster-com-dictionary-boy-16946940885981 screencapture-www-merriam-webster-com-dictionary-collective-16946941811201

United States Patent and Trademark Office (USPTO)Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 97705213

Mark: BOY COLLECTIVE

Correspondence Address:

Benjamin A. Costa Ridder, Costa & Johnstone LLP 440 N Barranca Ave #7550 Covina CA 91723 UNITED STATES

Applicant: Neil P. Phillips LLC

Reference/Docket No. N/A

Correspondence Email Address: trademark@rcjlawgroup.com

NONFINAL OFFICE ACTION

Response deadline. File a response to this nonfinal Office action within three months of the "Issue date" below to avoid <u>abandonment</u> of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the "How to respond" section below.

Request an extension. For a fee, applicant may <u>request one three-month extension</u> of the response deadline prior to filing a response. The request must be filed within three months of the "Issue date" below. If the extension request is granted, the USPTO must receive applicant's response to this letter within six months of the "Issue date" to avoid abandonment of the application.

Issue date: September 14, 2023

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issues below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

SEARCH OF USPTO DATABASE OF MARKS

The trademark examining attorney has searched the USPTO database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). 15 U.S.C. §1052(d); TMEP §704.02.

SUMMARY OF ISSUES:

- Section 2(e)(1) Refusal
- Partial Identification Requirement

SECTION 2(e)(1) REFUSAL- MERELY DESCRIPTIVE

Registration is refused because the applied-for mark merely describes a characteristic of applicant's goods and/or services. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); see TMEP §§1209.01(b), 1209.03 et seq.

A mark is merely descriptive if it describes an ingredient, quality, characteristic, function, feature, purpose, or use of an applicant's goods and/or services. TMEP §1209.01(b); see, e.g., In re TriVita, Inc., 783 F.3d 872, 874, 114 USPQ2d 1574, 1575 (Fed. Cir. 2015) (quoting In re Oppedahl & Larson LLP, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); In re Steelbuilding.com, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005) (citing Estate of P.D. Beckwith, Inc. v. Comm'r of Patents, 252 U.S. 538, 543 (1920)).

The determination of whether a mark is merely descriptive is made in relation to an applicant's goods and/or services, not in the abstract. *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1254, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012); *In re The Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012); TMEP §1209.01(b). "Whether consumers could guess what the product [or service] is from consideration of the mark alone is not the test." *In re Am. Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985).

The attached internet evidence demonstrates the wording "BOY" means "a male child from birth to adulthood" and the wording "COLLECTIVE" means "a collective body: GROUP". Thus, the wording "BOY COLLECTIVE" merely describes a characteristic of applicant's downloadable media, promotional services, and educational services, namely, that applicant is a group of persons providing services and goods intended to reach and benefit male children.

Generally, if the individual components of a mark retain their descriptive meaning in relation to the goods and/or services, the combination results in a composite mark that is itself descriptive and not registrable. *In re Zuma Array Ltd.*, 2022 USPQ2d 736, at *7 (TTAB 2022); *In re Fat Boys Water Sports LLC*, 118 USPQ2d 1511, 1516 (TTAB 2016); TMEP §1209.03(d); *see, e.g., DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1255, 103 USPQ2d 1753, 1758 (Fed. Cir. 2012) (holding SNAP SIMPLY SAFER merely descriptive for various medical devices, such as hypodermic, aspiration, and injection needles and syringes); *In re Fallon*, 2020 USPQ2d 11249, at *12 (TTAB 2020) (holding THERMAL MATRIX merely descriptive of a heat-responsive, malleable liner that is an integral component of an oral dental appliance).

Only where the combination of descriptive terms creates a unitary mark with a unique, incongruous, or

otherwise nondescriptive meaning in relation to the goods and/or services is the combined mark registrable. *See In re Omniome, Inc.*, 2020 USPQ2d 3222, at *4 (TTAB 2019) (citing *In re Colonial Stores, Inc.*, 394 F.2d 549, 551, 157 USPQ 382, 384 (C.C.P.A. 1968); *In re Shutts*, 217 USPQ 363, 364-65 (TTAB 1983)); *In re Positec Grp. Ltd.*, 108 USPQ2d 1161, 1162-63 (TTAB 2013).

In this case, both the individual components and the composite result are descriptive of applicant's goods and/or services and do not create a unique, incongruous, or nondescriptive meaning in relation to the goods and/or services. Specifically, it still merely conveys that applicant is a business group that provides services and goods for male children.

Thus, as the applied-for mark is merely descriptive, registration is refused under Trademark Act Section 2(e)(1).

Although applicant's mark has been refused registration, applicant may respond to the refusal by submitting evidence and arguments in support of registration. However, if applicant responds to the refusal, applicant must also respond to the requirement set forth below.

PARTIAL IDENTIFICATION REQUIREMENT

THIS REQUIREMENT APPLIES TO THE GOODS AND SERVICES SPECIFIED HEREIN ONLY

The wording "Downloadable movies, audiovisual works, and educational information in the field of social justice and issues affecting black Americans and other persons of color" in the identification of goods is indefinite and must be clarified because applicant must specify further what the information is. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

The wording "Educational and entertainment services, namely providing a website featuring educational and biographical stories of third parties; Educational and entertainment services, namely providing a website featuring educational and biographical stories of third parties for the purpose of highlighting stories of accomplished black Americans and other persons of color; Educational services, namely, developing curriculum for educators and providing curriculum to educators; Providing a website featuring movies, audiovisual works, and educational and informational works in the field of social justice and issues affecting black Americans and other persons of color" in the identification of services is indefinite and must be clarified because applicant must clarify further the nature of the services. See 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

Applicant may substitute the following wording, if accurate:

Class 9: Downloadable e-books in the field of social justice and issues affecting black Americans and other persons of color; Downloadable movies, audiovisual works, and educational information in the nature of videos in the field of social justice and issues affecting black Americans and other persons of color

Class 35: Promoting the interests of black Americans and other persons of color by means of public advocacy; Promoting public awareness of social justice and issues affecting black Americans and other persons of color by means of public advocacy

Class 41: Educational and entertainment services, namely providing a website featuring educational

and biographical stories in the nature of non-downloadable articles in the field of history of third parties; Educational and entertainment services, namely providing a website featuring educational and biographical stories in the nature of non-downloadble articles in the field of social justice of third parties for the purpose of highlighting stories of accomplished black Americans and other persons of color; Educational services, namely, developing curriculum for educators and providing curriculum in the nature of developing curriculum to educators; Providing a website featuring online, non-downloadable movies, audiovisual works being online videos, and educational and informational works being articles in the field of social justice and issues affecting black Americans and other persons of color

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable *U.S. Acceptable Identification of Goods and Services Manual. See* TMEP §1402.04.

RESPONSE GUIDELINES

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal and requirement in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

How to respond. File a <u>response form to this nonfinal Office action</u> or file a <u>request form for an extension of time to file a response</u>.

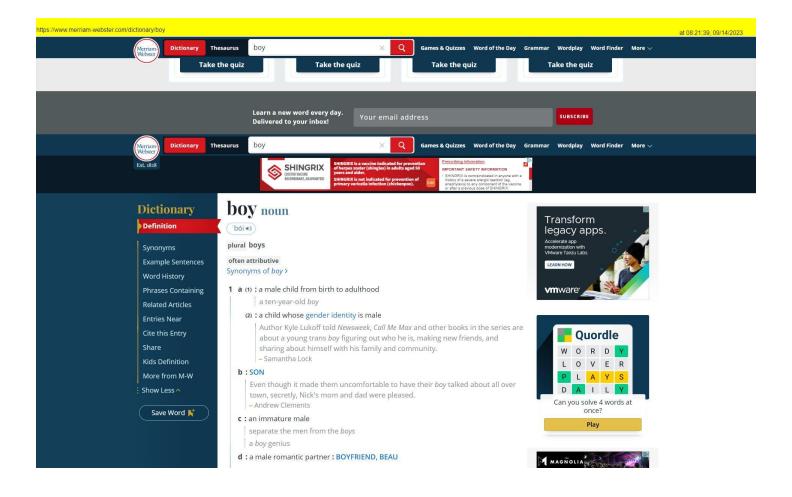
/Teague Avent/ Teague Avent Examining Attorney LO125--LAW OFFICE 125 (571) 272-1219 Teague.Avent@USPTO.GOV

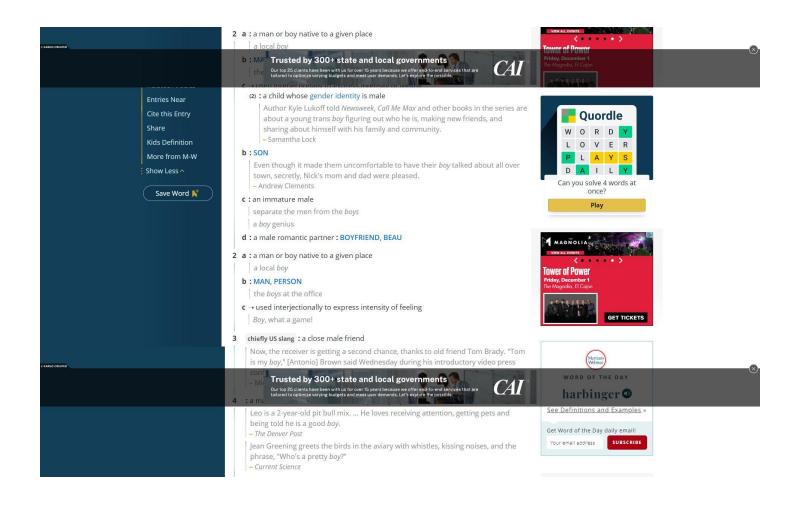
RESPONSE GUIDANCE

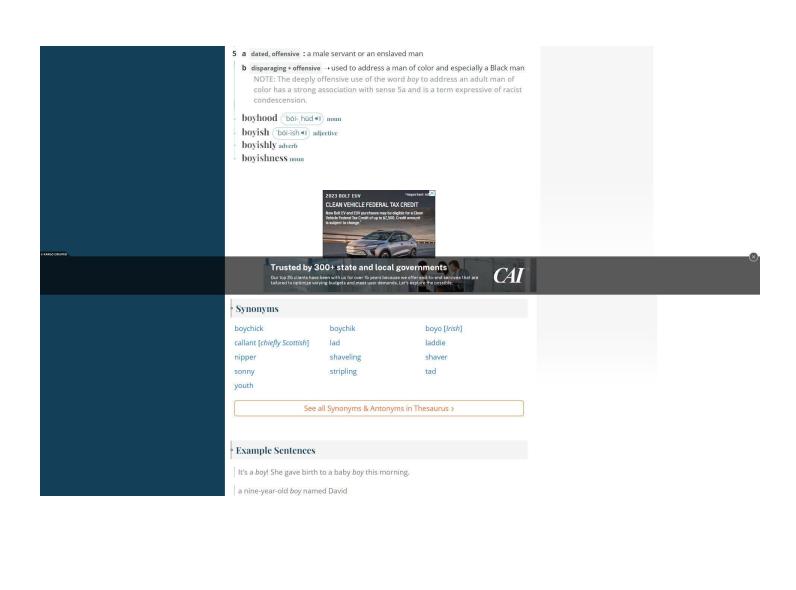
• Missing the deadline for responding to this letter will cause the application to <u>abandon</u>. A response or extension request must be received by the USPTO before 11:59 p.m. Eastern Time

of the last day of the response deadline. Trademark Electronic Application System (TEAS) system availability could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email TEAS@uspto.gov.

- Responses signed by an unauthorized party are not accepted and can cause the application to abandon. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant. If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find contact information for the supervisor** of the office or unit listed in the signature block.







Okay, boys and girls, it's time to play a game.

Is this your little boy?

See More >



Word History

Etymology

Middle English

First Known Use

14th century, in the meaning defined at sense 5a

Time Traveler

The first known use of boy was in the 14th century

See more words from the same century

Phrases Containing boy

altar boy a wisp of a girl/boy ball boy
bad boy big boy B-boy
cabin boy boy howdy boy band

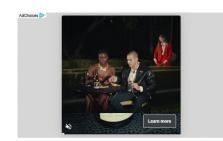
Articles Related to boy



10 Words for Other People's Children Brats, ankle biters, and other holy terrors



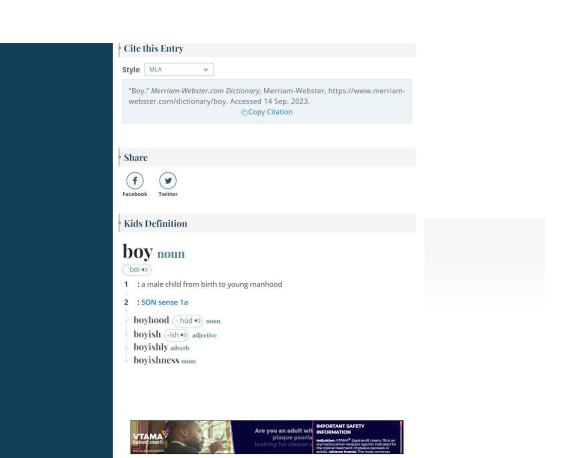
8 Old Words for Young People Whippersnapper



Dictionary Entries Near boy

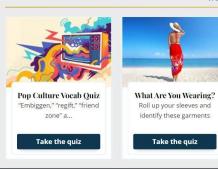
boxy boy boy's-love

See More Nearby Entries >



Nglish: Translation of boy for Spanish Speakers Britannica English: Translation of boy for Arabic Speakers Love words? Need even more definitions? Subscribe to America's largest dictionary and get thousands more definitions and advanced search—ad free!

Word Games







our vocabulary with our of the N
10-question quiz!

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Take the quiz

https://www.merriam-webster.com/dictionary/collective at 08:23:12, 09/14/2023





- marked by similarity among or with the members of a group
 the *collective* interests of the town
- 5 : collectivized or characterized by collectivism | collective farming
- Shared or assumed by all members of the group
 collective responsibility
 the collective opinion of the staff
 collective guilt

collectively adverb

collective communities

collective 2 of 2 noun

Shared or assumed by all members of the group
 collective responsibility
 the collective opinion of the staff
 collective guilt

collectively adverb

collective 2 of 2 noun

- 1 : a collective body : GROUP
 | a social collective
 - a board sorredire
- 2 : a cooperative unit or organization specifically: COLLECTIVE FARM
- 3 : a helicopter control system governing lift













Synonyms

Adjective

 collaborative
 combined
 common

 communal
 concerted
 conjoint

 conjunct
 cooperative
 joint

 multiple
 mutual
 pooled

 public
 shared
 united

See all Synonyms & Antonyms in Thesaurus >

Example Sentences

Adjective

We made a collective decision to go on strike.

The incident became part of our collective memory.

the collective wisdom of generations

Recent Examples on the Web

Adjective

But observing and experiencing her performance means bearing witness to a celebration of the depths of our *collective* multitudes.

- Marissa Evans, Los Angeles Times, 7 Sep. 2023

Ever since it was first enjoyed by soldiers, merchants, and visitors from the Habsburg Empire in the Veneto region of Italy in the 1800s, the drink has been firmly etched in our *collective* consciousness as the quintessential beverage to sip when temperatures begin to heat up.

- Chadner Navarro, Vogue, 6 Sep. 2023



SELLARAR is a prescription medicine used to freate adults and children fo years and older with moderate to savere positions who may benefit from taking mechanism probablements the major or pilos (systemic therapy) or photoleheapy) freatment using ultravoiat light arone or with pilos.

adults and children fo years and older with children fo years and older with children for years and older with children for years.



See More >

These examples are programmatically compiled from various online sources to illustrate current usage of the word 'collective.' Any opinions expressed in the examples do not represent those of Merriam-Webster or its editors. Send us feedback about these examples.



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Word History

Etymology

Adjective

Middle English collectif, borrowed from Anglo-French & Medieval Latin; Anglo-French, borrowed from Medieval Latin collectivus, going back to Late Latin, "comprehensive, (in logic and grammar) inferential," going back to Latin, "preceding by inference, deductive," from collectus, past participle of colligere "to gather together, assemble, accumulate, deduce, infer" + -ivus -IVE — more at COLLECT entry 2

Noun

derivative of COLLECTIVE entry 1

First Known Use

Adjective

15th century, in the meaning defined at sense 1

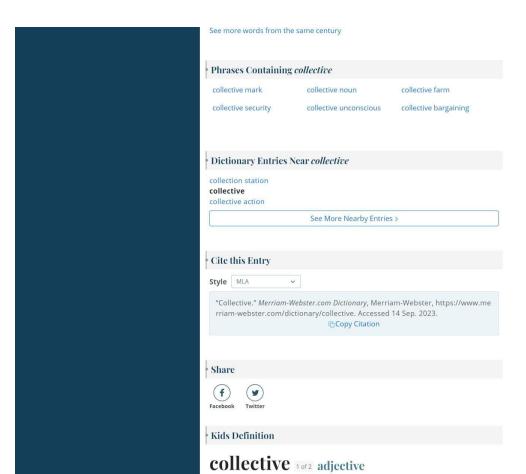
Noun

1655, in the meaning defined at sense 1

Time Traveler

The first known use of collective was in the 15th century









col·lec·tive (kə-ˈlek-tiv ◄))

- : having to do with a number of persons or things considered as one group
 | "flock" is a collective noun
- 2 : formed by collecting
- : of, relating to, or involving all members of a group
 | the collective feelings of the team
 | collective legal action
- 4 : shared or done by a number of persons as a group
 | a collective effort
- collectively adverb

collective 2 of 2 noun

- 1 : a collective body: GROUP
- 2 : a cooperative unit or organization



Legal Definition

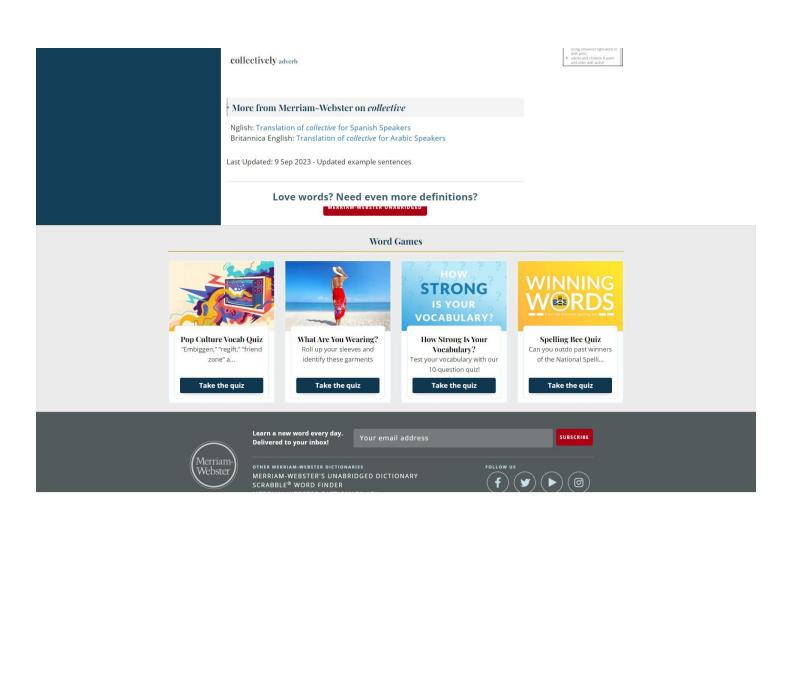
collective adjective

col·lec·tive (kə-ˈlek-tiv ◀))

: involving all members of a group as distinct from individual members







United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued on September 14, 2023 for U.S. Trademark Application Serial No. 97705213

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

- (1) **Read the Office action**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be <u>abandoned</u>. See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO <u>website</u>, the application process, the status of your application, and whether there are outstanding deadlines to the <u>Trademark Assistance Center (TAC)</u>.

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- <u>Check the status</u> of your application periodically in the <u>Trademark Status & Document Retrieval (TSDR)</u> database to avoid missing critical deadlines.
- <u>Update your correspondence email address</u> to ensure you receive important USPTO notices about your application.
- Beware of trademark-related scams. Protect yourself from people and companies that
 may try to take financial advantage of you. Private companies may call you and pretend
 to be the USPTO or may send you communications that resemble official USPTO
 documents to trick you. We will never request your credit card number or social security
 number over the phone. Verify the correspondence originated from us by using your
 serial number in our database, TSDR, to confirm that it appears under the "Documents"
 tab, or contact the Trademark Assistance Center.
- Hiring a U.S.-licensed attorney. If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.